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INNERLINE ENGINEERING, INC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

INNERLINE ENGINEERING, INC., a
California corporation,

Plaintiff,

v.

OPERATING ENGINEERS' HEALTH
AND WELFARE TRUST FUND FOR
NORTHERN CALIFORNIA; DAN
REDING and JAMES E. MURRAY,
Trustees;

PENSION TRUST FUND FOR
OPERATING ENGINEERS; DAN REDING
and JAMES E. MURRAY, Trustees;

PENSIONED OPERATING ENGINEERS'
HEALTH AND WELFARE TRUST FUND;
DAN E. REDING and JAMES E.
MURRAY, Trustees;

OPERATING ENGINEERS AND
PARTICIPATING EMPLOYERS PRE-
APPRENTICE, APPRENTICE AND
JOURNEYMAN AFFIRMATIVE ACTION
TRAINING FUND; DAN REDING and
JAMES E. MURRAY, Trustees;

OPERATING ENGINEERS LOCAL
UNION NO. 3 VACATION, HOLIDAY
AND SICK PAY TRUST FUND; DAN
REDING and JAMES E. MURRAY,
Trustees;

Case No. 3:22-cv-3663

**PLAINTIFF INNERLINE
ENGINEERING, INC.'S
COMPLAINT FOR DECLARATORY
RELIEF AND UNJUST
ENRICHMENT**

1 HEAVY AND HIGHWAY COMMITTEE
2 aka HEAVY AND HIGHWAY TRUST
3 FUND;

4 OPERATING ENGINEERS LOCAL 3 OF
5 THE INTERNATIONAL UNION OF
6 OPERATING ENGINEERS, AFL-CIO; and

7 DOES 1 through 20, inclusive,
8 Defendants.

9 Plaintiff, Innerline Engineering, Inc., alleges as follows:

10 PARTIES

11 1. Plaintiff, Innerline Engineering, Inc. ("Innerline") is a California corporation,
12 a corporation located within the City of Corona, County of San Riverside, State of
13 California, and doing business within the State of California. Plaintiff Innerline offers a
14 variety of services to municipalities, utility owners, industrial facilities and commercial
property owners for the maintenance of their underground utilities.

15 2. Plaintiff is informed and believes and based thereon alleges that defendants
16 the Operating Engineers' Health and Welfare Trust Fund for Northern California ("Health
17 Fund"), the Pension Trust Fund for Operating Engineers ("Pension Plan"), the Pensioned
18 Operating Engineers' Health and Welfare Trust Fund ("Pensioned Health Fund), the
19 Operating Engineers and Participating Employers Pre-apprentice, Apprentice and
20 Journeymen Affirmative Action Training Fund ("Affirmative Action Training Fund"),
21 and the Operating Engineers Local Union No. 3 Vacation, Holiday and Sick Pay Trust
22 Fund ("Vacation Fund") (collectively referred to hereinafter as the "Trust Funds"), are
23 employee benefit plans as defined in the Employee Retirement Income Security Act of
24 1974 ("ERISA") § 3(3), 29 U.S.C. § 1002(3). Plaintiff is further informed and believes
25 and based thereon alleges that Dan Reding and James E. Murray are Co-Chairmen of the
26 Joint Boards of Trustees of the Health Fund, Pension Plan, Pensioned Health Fund, and
27 Affirmative Action Training Fund, and Vacation Trust Fund, and have authority to act on
28 behalf of all Trustees of those Funds, and that Dan Reding and James E. Murray are Co-

1 Chairmen of the Joint Boards of Trustees of the Vacation Fund and have authority to act
2 on behalf of all Trustees of the Vacation Fund. The Trust Funds and their fiduciaries are
3 together referred to herein as "ERISA Defendants" or "Defendants."

4 3. Plaintiff is informed and believes and based thereon alleges that defendant
5 Heavy and Highway Committee is a Trust established under the Labor Management
6 Relations Act ("LMRA"), 302(c)(9), 29 U.S.C. § 186(c)(9).

7 4. Plaintiff is informed and believes and based thereon alleges that the six Trust
8 Fund defendants alleged in paragraphs 2 and 3 above are administered at their principal
9 place of business in the City Alameda, County of Alameda, State of California.

10 5. Plaintiff is informed and believes and based thereon alleges that Operating
11 Engineers Local Union No. 3 of the International Union of Operating Engineers, AFL-
12 CIO ("Union") is a labor organization as defined in § 2(5) of the National Labor Relations
13 Act ("NLRA"), 29 U.S.C. § 152(5), and collected union dues owing as part of the
14 contribution claims of Defendants against third party Caribou Energy Corporation, a
15 North Dakota corporation. Plaintiff is informed and believes and thereon alleges that the
16 Union's headquarters are located in the City of Alameda, County of Alameda, State of
17 California.

18 6. Plaintiff is ignorant of the true names and capacities of defendants sued
19 herein as DOES 1 through 20, inclusive, and therefore sue these defendants by such
20 fictitious names. Plaintiff will amend this Complaint to allege their true names and
21 capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each
22 of these fictitiously named defendants was and is responsible in some manner for the
23 occurrences herein alleged, and that Plaintiff's injuries as herein alleged were proximately
24 caused by the acts and omissions of the aforementioned defendants.

25 7. Plaintiff is informed and believes, and thereon alleges, that each of the
26 Defendants herein were, at all times relevant to this action, the agent, employee,
27 representative, partner, or joint venture of the remaining Defendants and were acting
28 within the course and scope of that relationship. Plaintiff is further informed and believes,

1 and thereon alleges, that each of the Defendants herein gave consent to, ratified, and/or
2 authorized the acts alleged herein by each of the remaining defendants.

3 JURISDICTION AND VENUE

4 8. This Court has jurisdiction to preside over this matter because the subject
5 matter of the Complaint is a challenge to a void Writ of Execution that the Clerk of the
6 U.S. District Court in the Northern District of California issued pursuant to a Judgment
7 entered in the Underlying Action before that same federal court, as further alleged below.
8 The amount in controversy is in excess of \$25,000.00.

9 9. Venue is proper in that all the defendant Trust Funds and the defendant Union
10 is headquartered and does business in the City of Alameda, County of Alameda, State of
11 California, within the jurisdictional boundaries of the United States District Court for the
12 Northern District of California.

13 GENERAL ALLEGATIONS

14 10. This case arises out of an underlying case titled OPERATING ENGINEERS'
15 HEALTH AND WELFARE TRUST FUND FOR NORTHERN CALIFORNIA, etc. et al.
16 vs. CARIBOU ENERGY CORPORATION, a North Dakota Corporation;
17 CHRISTOPHER SCOTT YENZER, an individual; and RAFAEL PADILLA, an
18 individual, which was litigated in United States District Court, Northern District of
19 California, Case No. C18-02086 YGR. (the "Underlying Action")

20 11. Defendants herein were plaintiffs in the Underlying Action. Defendants
21 herein are referred to collectively hereinafter as "OE3."

22 12. Caribou Energy Corporation ("Caribou"), Christopher Scott Yenzer
23 ("Yenzer"), and Rafael Padilla ("Padilla") were defendants in the Underlying Action.

24 **Innerline was not a party to the Underlying Action.**

25 13. On July 3, 2018, in the Underlying Action, pursuant to a Judgment Pursuant
26 to Stipulation signed by the parties, the Court entered a modified Judgment Pursuant to
27 Stipulation in favor of OE3 and against Caribou and Padilla, in the amount of \$345,849.44
28 plus additional sums (the "Stipulated Judgment"). A copy of the Stipulated Judgment is

1 attached hereto as Exhibit A.

2 14. Padilla was a corporate officer of both Caribou and Innerline when he signed
3 the Stipulated Judgment in the Underlying Action. Both Caribou and Innerline were
4 wholly-owned subsidiaries of IE Storm Tech Leasing, LLC ("IE Storm Tech"). IE Storm
5 Tech was not a party to the Underlying Action. Padilla did not have an ownership interest
6 in Caribou, Innerline, or their parent, IE Storm Tech. **Innerline was not a party to the**
7 **Underlying Action and was not added as a judgment debtor to the Stipulated**
8 **Judgment by post-judgment motion.**

9 15. Paragraph 3 of the Stipulated Judgment in the Underlying Action provides
10 that defendant Padilla ("Guarantor") confirms that he is personally guaranteeing the
11 amounts due and that defendants Caribou and Padilla further confirm that all successors
12 in interest, assignees, and affiliated entities (including, but not limited to parent or other
13 controlling companies), and any companies with which either defendant joins or merges,
14 if any, shall also be bound by the terms of the Stipulated Judgment as guarantors.
15 Paragraph 3 further states that this shall include any additional entities in which Padilla is
16 an officer, owner or possesses any controlling ownership interest and that all such entities
17 shall specifically consent to the Court's jurisdiction, the use of a Magistrate Judge for all
18 proceedings, and all other terms therein, in writing at the time of any assignment,
19 affiliation or purchase.

20 16. Paragraph 12 of the Stipulated Judgment provides that a Writ of Execution
21 may be obtained without further notice, in the amount of the unpaid balance plus any
22 additional amounts due under the terms of the Stipulated Judgment, and solely upon a
23 declaration by a duly authorized representative of Plaintiffs setting forth the balance due
24 as of the date of default.

25 17. At the time Rafael Padilla signed the Stipulated Judgment (June 21, 2018),
26 defendant Padilla was also the CEO of Innerline Engineering, Inc. ("Innerline").
27 However, as previously noted, Innerline was not a party to the Underlying Action.

28 18. A judge has the statutory authority under Code of Civil Procedure ("CCP")

1 section 187 to amend a judgment to add additional judgment debtors. Defendant OE3, the
2 plaintiff in the Underlying Action, never filed a noticed motion under CCP § 187, or any
3 other statute, to amend the Stipulated Judgment to add Innerline as an additional judgment
4 debtor.

5 19. On October 4, 2018, in the Underlying Action, OE3 filed its application for
6 issuance of a Writ of Execution in the amount of \$535,144.25 plus daily interest of
7 \$146.61 from the date of the Writ until satisfied. Based on the terms of the Stipulated
8 Judgment and the supporting declaration of its attorney establishing the fact that Padilla
9 was an officer of Innerline at the time the Stipulated Judgment was signed, OE3 requested
10 the Court Clerk to add Innerline as a judgment debtor to the Writ of Execution. In other
11 words, despite the fact that Innerline was not a party to the Underlying Action, OE3
12 nevertheless claimed that *Innerline* was bound by the terms of the Stipulated Judgment as
13 a guarantor because defendant Padilla was a corporate officer of Innerline when he signed
14 the Stipulated Judgment. It was on that basis that OE3, plaintiff in the Underlying Action,
15 requested that the Court Clerk include Innerline as a judgment debtor on the Writ of
16 Execution. A copy of the application for Writ of Execution and supporting Declaration
17 of Matthew Minser is attached as Exhibit B.

18 20. At the time the parties signed the Stipulated Judgment, Innerline was neither
19 a parent nor a subsidiary of Caribou. Innerline was not a controlling company of Caribou.
20 Innerline and Caribou were merely sister companies in that each was a wholly-owned
21 subsidiary of IE Storm Tech. In seeking to add Innerline as an additional judgment debtor
22 to the Writ of Execution, OE3 relied solely and entirely on the factual assertion and legal
23 argument that *Innerline* should be added as an additional judgment debtor because Padilla
24 was a corporate officer of Innerline when he signed the Stipulated Judgment to which
25 Padilla and Caribou were parties.

26 21. On October 5, 2018, the Clerk of the Court issued the Writ of Execution as
27 requested by OE3's counsel. The Writ of Execution added Innerline as an additional
28 judgment debtor on the writ. A copy of the issued Writ of Execution is attached as Exhibit

1 C. Innerline also is informed and believes and thereon alleges that Clerk issuing the writ
2 failed to obtain the review and approval of a judge to add Innerline as a judgment debtor
3 to the writ as required by statute.

4 22. Innerline was served with the Writ of Execution and Notice of Levy thereon
5 on October 23, 2018.

6 23. OE3 has levied against Innerline's assets by virtue of having Innerline added
7 as an additional judgment debtor to the Writ of Execution. As of the current date, OE3
8 has unlawfully levied and received payments belonging to Innerline in the amount in
9 excess of \$438,000.00, according to proof., calculated as follows:

10 **FIRST CAUSE OF ACTION**

11 **DECLARATORY RELIEF**

12 24. Plaintiff Innerline realleges and incorporates herein, as though fully set forth,
13 the allegations set forth above in paragraphs 1 through 23.

14 25. Defendants OE3 have improperly, unlawfully and without filing the requisite
15 motion, had Innerline added as a judgment debtor to the Writ of Execution issued post-
16 judgment in case in the Underlying Action to which Innerline was not a party and in which
17 Innerline was not provided an opportunity to be heard in defense of any claims against it,
18 thereby violating Innerline's right to due process of law. The Writ of Execution was, and
19 is, void as a matter of law as against Plaintiff, Innerline.

20 26. Defendants OE3 have improperly and unlawfully levied funds in an amount
21 in excess of \$438,000.00 according to proof, which monies rightfully belong to Plaintiff
22 herein, Innerline.

23 27. There exists a substantial an actual controversy between the parties regarding
24 the validity of the Writ of Execution and whether funds may be properly levied upon
25 pursuant to the Writ of Execution. Plaintiff Innerline seeks a declaratory judgment that
26 said Writ of Execution is invalid and may not be properly levied upon to satisfy the
27 Judgment in the Underlying Action.

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SECOND CAUSE OF ACTION

UNJUST ENRICHMENT

28. Plaintiff Innerline realleges and incorporates herein, as though fully set forth, the allegations of paragraphs 1-23 above.

29. Defendants OE3 have improperly, unlawfully and without filing the requisite motion, had Innerline added as a judgment debtor to the Writ of Execution issued post-judgment in case in the Underlying Action to which Innerline was not a party and in which Innerline was not provided an opportunity to be heard in defense of any claims against it, thereby violating Innerline's right to due process of law. The Writ of Execution was, and is, void as a matter of law as against Plaintiff Innerline.

30. Pursuant to the improper and unlawful Writ of Execution issue post-judgment in the Underlying Action, Defendants have caused levies to be executed on Plaintiff's accounts in an amount in excess of \$438,000.00, according to proof, all to Defendant OE3's financial benefit and to Plaintiff Innerline's financial detriment.

31. The monies Defendants OE3 obtained as a result of the improper and unlawful levies rightfully belong to Plaintiff Innerline and, thus, Defendants OE3 have been unjustly enriched in said amounts.

32. It would be inequitable and unjust for Defendants OE3 to be permitted to retain any of the funds levied against Innerline's accounts pursuant to the void Writ of Execution.

33. Plaintiff Innerline is accordingly entitled to equitable relief in the form of restitution of all such funds wrongfully levied by Defendants OE3 as a result of its wrongful acts. Plaintiff Innerline therefore demands restitution and judgment against Defendants OE3 in an amount in excess of \$438,000, according to proof, together with any allowable pre-judgment interest, attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays:

1. That the Court declare, adjudge and decree that Plaintiff Innerline

1 Engineering, Inc. was unlawfully added as a judgment debtor to the writ of execution in
2 the Underlying Action and that said Writ of Execution was and is void as a matter of law
3 as against Innerline;

4 2. That the Court declare, adjudge and decree that Defendants OE3 were
5 unjustly enriched by their unlawful actions and to the detriment of Plaintiff herein in an
6 amount according to proof and alleged to be in excess of \$438,000.00;

7 3. That as a result of their acts of unjust enrichment the Plaintiff be awarded
8 restitution from Defendants OE3 in an amount according to proof and alleged to be in
9 excess of \$438,000.00;

10 4. That Plaintiff be awarded pre-judgment and post-judgment interest at the
11 legal rate of interest; and

12 5. That the Court grant other legal and equitable relief as it may deem just and
13 proper under the circumstances, including such other relief as the Court may deem just
14 and proper to redress, and prevent recurrence of the unlawful actions by Defendants OE3.

15
16 Dated: June 22, 2022

FERRIS & BRITTON, APC

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18 By: 

19 Michael R. Weinstein

20 Scott H. Toothacre

21 Attorneys for Plaintiff

22 INNERLINE ENGINEERING, INC.
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